

JS 44 (Rev. 10/20)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

AMANDA BORTZ &amp; DAVID BORTZ, H/W

(b) County of Residence of First Listed Plaintiff **CARROLL COUNTY**  
(EXCEPT IN U.S. PLAINTIFF CASES)

480 CHARTER COURT, WESTMINSTER, MARYLAND 21157

(c) Attorneys (Firm Name, Address, and Telephone Number)

WILLIAM P. FEDULLO, ESQUIRE - 1528 WALNUT STREET,  
SUITE 400, PHILADELPHIA, PA 19102 - (215) 235-6500  
E-MAIL: williamfedullo@gmail.com**DEFENDANTS**KALAHARI RESORTS & CONVENTIONS & KALAHARI RESORTS PA, LLC  
250 KALAHARI BLVD., POCONO MANOR, PA 18349 & 919 N. MARKET ST.  
STE. 950, WILMINGTON, DELAWARE 19801County of Residence of First Listed Defendant **MONROE COUNTY**  
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

JOHN W. CROUMER, ESQUIRE  
POST & SCHELL  
1869 CHARTER LANE, LANCASTER, PA 17605**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                                   |   | PTF                        | DEF                        |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1            | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2            | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3            | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Millar Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans' Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input checked="" type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 USC SS1332

Brief description of cause:

INJURY ON WATER SLIDE.

**VII. REQUESTED IN COMPLAINT:**☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

EXCESS OF \$75,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See Instructions):

JUDGE

DOCKET NUMBER

DATE

3/29/2021

SIGNATURE OF ATTORNEY OF RECORD

WILLIAM P. FEDULLO, ESQUIRE

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**DESIGNATION FORM**

*(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)*

Address of Plaintiff: 480 CHARTER COURT, WESTMINSTER, MARYLAND 21157

Address of Defendant: 250 KALAHARI BOULEVARD, POCONO MANOR, PA 18349

Place of Accident, Incident or Transaction: 250 KALAHARI BOULEVARD, POCONO MANOR, PA 18349

**RELATED CASE, IF ANY:**

Case Number: \_\_\_\_\_ Judge: \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- |  |                              |  |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?            | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☐ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 3/29/2021 \_\_\_\_\_ Must sign here 23681  
 Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable)

**CIVIL: (Place a ✓ in one category only)**

**A. Federal Question Cases:**

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Patent
- ☐ 6. Labor-Management Relations
- ☐ 7. Civil Rights
- ☐ 8. Habeas Corpus
- ☐ 9. Securities Act(s) Cases
- ☐ 10. Social Security Review Cases
- ☐ 11. All other Federal Question Cases

(Please specify): \_\_\_\_\_

**B. Diversity Jurisdiction Cases:**

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☐ 6. Other Personal Injury (Please specify): \_\_\_\_\_
- ☒ 7. Products Liability
- ☐ 8. Products Liability - Asbestos
- ☐ 9. All other Diversity Cases

(Please specify): \_\_\_\_\_

**ARBITRATION CERTIFICATION**

*(The effect of this certification is to remove the case from eligibility for arbitration.)*

I, WILLIAM P. FEDULLO, counsel of record or pro se plaintiff, do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☐ Relief other than monetary damages is sought.

DATE: 3/29/2021 \_\_\_\_\_ Sign here if applicable 23681  
 Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

---

**AMANDA BORTZ AND  
DAVID BORTZ, H/W  
480 CHARTER COURT  
WESTMINSTER, MARYLAND 21157**

***PLAINTIFFS***

**VS.**

**KALAHARI RESORTS AND CONVENTIONS  
250 KALAHARI BOULEVARD  
POCONO MANOR, PA 18349**

***DEFENDANT***

**AND**

**KALAHARI RESORTS PA, LLC  
919 NORTH MARKET STREET  
SUITE 950  
WILMINGTON, DELAWARE 19801**

***DEFENDANT***

**CIVIL ACTION -  
NO. 2:20-cv-06474-GAM**

**JURY TRIAL DEMANDED**

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**CIVIL ACTION - SECOND AMENDED COMPLAINT**

- 1.) Plaintiff, Amanda Bortz is an individual and citizen of the State of Maryland with her current address being 480 Charter Court, Westminster, Maryland 21157.
- 2.) Plaintiff, David Bortz is the husband of Amanda Bortz and is an individual and citizen of the State of Maryland with his current address being 480 Charter Court, Westminster, Maryland 21157.
- 3.) Defendant, Kalahari Resorts PA, LLC, a/k/a Kalahari Resorts and Conventions is a limited liability company, with a corporation address of 919 North Market Street, Suite 950, Wilmington, Delaware 19801 with a business address of 250 Kalahari Boulevard, Pocono Manor, PA 18349 (hereinafter referred to as "Kalahari").

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4.) This Court has jurisdiction of this matter by virtue of the Diverse Citizenship of the parties and that the amount in controversy exceeds \$75,000.00 pursuant to 28 U.S.C. SS1332 and because of Defendant's engagement in substantial continuous and systematic course of business in the Eastern District of Pennsylvania.

5.) At all times relevant, Defendant acted or failed to act through its authorized servants and/or employees acting on its business and within the course and scope of their authority.

6.) Defendant, Kalahari advertises itself as "America's Largest Indoor Waterparks, Resorts and Convention Centers". Kalahari advertises "The getaway boasts hair-raising water slides, world-class spas, kids' play areas and diverse dining options. Go ahead, make everyone's day."

7.) Defendant, Kalahari opened July 1, 2015. Travis Nelson an owning member of Kalahari Resort on behalf of Kalahari appeared on Philly Talk with Pat Ciarrocchi prior to the opening of Kalahari's opening. This appearance was on CBS3 located in Philadelphia, Pennsylvania in Eastern District of Pennsylvania. Travis Nelson spoke about the proximity to Philadelphia and described the water park. They had "Family Times" in Philadelphia, Pennsylvania and in King of Prussia, Pennsylvania to promote Kalahari Resorts. People were asked to book reservations through "CBSphilly.com"

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8.) Kalahari has continued to advertise through Philadelphia media outlets in the Eastern District of Pennsylvania and Plaintiff was living in Pennsylvania during this period of time and she became aware of Kalahari Resorts through the various advertisements in the Eastern District of Pennsylvania by Kalahari Resort.

9.) From the time prior to the opening of Kalahari Resorts through the time of Plaintiff's injury on December 27, 2018, Defendant, Kalahari engaged in continuous and systematic course of business by advertising and media contacts available in the Eastern District of Pennsylvania that it made Plaintiff aware of Kalahari Resorts and decide to book her family for a vacation there in December 2018.

10.) Defendant, Kalahari had such persuasive contacts throughout the Eastern District of Pennsylvania through various media outlets and personal appearances of Kalahari's Executives that it caused Plaintiff to become aware of Defendant and book a vacation at that resort.

11.) On December 2, 2018, Amanda Bortz and her husband, David Bortz, along with their children, C. and D., checked in for their stay at Kalahari, 250 Kalahari Boulevard, Pocono Manor, Pennsylvania 18349.

12.) Amanda Bortz indicates the stay was to be from December 26, 2018 to December 28, 2018. The check-in time took approximately 3 hours due to the rooms not being available because the resort was short-staffed.

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13.) On December 27, 2018, Amanda Bortz was accompanied by C. Bortz to the water slide in question which was called "Screaming Hyena." The slide in question was being monitored by a Kalahari employee who was also monitoring five other slides. This employee told Amanda to follow the picture instructions and go when the light was green.

14.) Amanda Bortz assisted C. Bortz with the correct positioning of his body on "Screaming Hyena" and C. went down the slide without incident.

15.) Amanda Bortz positioned herself as instructed on "Screaming Hyena" and asked the employee if she was in the proper position. The employee told Amanda Bortz that she was in the proper position. Amanda Bortz then awaited the light to turn green and went down the water slide. As she went down the water slide in the position she was instructed to assume, she became airborne. Her body left the slide and then returned into the slide slamming her left elbow on the tube.

16.) Amanda Bortz had instant pain as a result of her injury and had difficulty getting out of the slide. David Bortz and C. Bortz assisted Amanda off the slide asking if she was alright. She went to her chair to rest while the others swam in the pool. Although it was apparent that the life guard could hear the Bortz family discussing Amanda's injury, he made no effort to assist her.

17.) Amanda Bortz and her family returned to their room where she iced her arm and rested for a few hours. She took Ibuprofen and then returned to the water park that evening. She returned because her 9 year old and 6 year old wanted to go back.

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18.) Amanda Bortz went back to the waterpark and went to the first aid area where she was treated rudely and then left. She returned to her room where she kept her arm elevated and iced it throughout the night.

19.) Amanda Bortz and her family checked-out of the hotel on the morning of December 28, 2018. Amanda contacted the hotel and explained how the injury had occurred. She spoke with a woman by the name of Stephanie who was the manager and Stephanie told Amanda that she (Stephanie) would be filing a claim and that Amanda would be contacted and that she would upgrade the room if Amanda's family choose to stay there again. Stephanie apologized for how short staffed they were and stated that it was because of the holidays.

20.) Amanda Bortz went to her local Urgent Care on Saturday, December 29, 2018. She received an X-ray and was instructed to follow-up with her Orthopedist. Since December 29, 2018, she visited her hand specialist a number of times. She has had injections, worn a wrist brace for 6 weeks to avoid moving the tendons in her elbow and had an MRI.

21.) On July 29, 2019, Amanda Bortz had hand surgery performed by Christopher Forthman, M.D., to correct the elbow fracture and extended tendon in her left arm that was caused by Defendant's negligence.

22.) Because of significant problems with recovery of her left hand, arm and wrist, Amanda Bortz is beginning treatment with orthopaedic surgeons in Philadelphia, Pennsylvania to diagnose the problems she is having and to assist in her recovery.

23.) The Plaintiff, Amanda Bortz, has incurred and continues to incur significant expense in the treatment of her injury.



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24.) The Plaintiff, Amanda Bortz has missed significant time from work and may in the future miss significant time from work in attempting to cure and recover from her injury.

25.) The Plaintiff, Amanda Bortz has been and may in the future be unable to go about her daily routines as a result of her injury.

26.) Plaintiff is seeking further intervention with orthopaedic surgeons located in Philadelphia, Pennsylvania because of continuing problems with her left hand, arm and wrist.

**COUNT I**  
**NEGLIGENCE:**

**PLAINTIFF, AMANDA BORTZ VS. KALAHARI RESORTS AND**  
**CONVENTIONS:**

27.) Plaintiff hereby incorporates by reference the allegations in paragraphs 1 through 26 as if fully set forth at length herein.

28.) At all times relevant hereto, Plaintiff, Amanda Bortz was a business invitee of Defendant.

29.) Based upon information and belief, at all relevant times before the accident of December 27, 2018, Defendants knew or should have known through reasonable inspection and/or testing, directly or through their employees, servants, agents or otherwise that a subject slide was dangerous for its intended use and that individuals such as Plaintiff would become airborne and then slam back into the slide causing injuries such as occurred to the Plaintiff.

30.) The Defendant owed a duty to Plaintiff who was a business invitee of all the dangers involved in riding the water slide.



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31.) The Defendant's failure to warn Plaintiff of all the hidden dangers was a proximate cause of the injury to the Plaintiff.

32.) The Plaintiff suffered actual injuries as a result of the breach of duty of Defendant.

33.) The aforementioned incident and resulting injuries and damages sustained by Plaintiff, Amanda Bortz, directly and proximately resulted from the negligence, carelessness, recklessness and/or unlawfulness of Defendant and consisted of, but was not limited to the following:

- A.) Failing to regard the rights, safety and position of the Plaintiff in and about the area of the above-mentioned accident.
- B.) Failing to abide by the Codes of the Division of Occupational Safety and other codes pertaining to care, maintenance and use of water slides.
- C.) Permitting a dangerous condition to exist of, on or about Defendant's premises where the Defendant knew or should have known that persons would be subject to sustaining injury.
- D.) Failing to inspect, maintain and/or repair the aforesaid water slide in a reasonable, adequate and prudent manner.
- E.) Failing to disclose prior accidents on the aforesaid water slide and similar water slides that Defendants maintained.
- F.) Failing to issue adequate warning, verbal, written, actual and/or constructive, to person who would likely encounter the dangerous condition that existed on Defendant's premises and more particularly on Defendant's water slide that was the proximate cause of Plaintiff's aforesaid accident.

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- G.) Failing to have in their employ, people who understood and could explain the dangers of the water slide and particularly “Screaming Hyena.”
- H.) Failing to post adequate warning signs, warning and protocols in an effort to alert invitees of the dangerous condition(s) that existed.
- I.) Failing to address in a timely manner prior complaints about the water slide prior to Plaintiff’s injury.
- J.) Violating various ordinances regulations, codes, rules, statutes and/or laws of Monroe County of the Commonwealth of Pennsylvania and Federal Government: and/or
- K.) Acting negligently, carelessly, recklessly under circumstances where knowledge of such is within the exclusive knowledge of Defendant and that will be learning through discovery.
- L.) As a direct and proximate result of the aforementioned incident and the resulting injuries and damages, Plaintiff, Amanda Bortz, sustained serious and severe injuries to her left arm and elbow, resulting in several injections and ultimately surgery on July 29, 2019, humiliation, emotional and psychological pain and suffering, emotional distress, possible accelerated arthritis, physical pain and suffering, scarring, weakness, embarrassment and disfigurement - all of which injuries and damages are and/or may be permanent in nature.
- M.) As a direct and proximate result of the aforementioned incident and resulting injuries and damages. Plaintiff, Amanda Bortz suffered and/or suffers and/or will continue to suffer in the future a loss of earnings and her earning power has been and/or may be diminished and lessened.

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- N.) As a direct and proximate result of the aforementioned incident and resulting damages, Plaintiff, Amanda Bortz, has incurred and may incur future medical expenses and income losses she may be entitled to recover.

WHEREFORE, Plaintiff, Amanda Bortz demands against Defendant, Kalahari Resorts and Conventions damages in excess of \$75,000.00 exclusive of costs, interest, delay damages and other such relief as this Honorable Court may deem just and proper.

**COUNT II:**  
**NEGLIGENCE:**

**PLAINTIFF, AMANDA BORTZ V. KALAHARI RESORTS PA, LLC**

34.) Paragraphs 1 through 33 of this Complaint are incorporated herein by reference as though fully set forth at length.

35.) At all times relevant hereto, Plaintiff, Amanda Bortz was a business invitee of Defendant.

36.) Based upon information and belief, at all relevant times before the accident of December 27, 2018, Defendants knew or should have known through reasonable inspection and/or testing, directly or through their employees, servants, agents or otherwise that a subject slide was dangerous for its intended use and that individuals such as Plaintiff would become airborne and then slam back into the slide causing injuries such as occurred to the Plaintiff.

37) The Defendant owed a duty to Plaintiff who was a business invitee of all the dangers involved in riding the water slide.

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38 ) The Defendant's failure to warn Plaintiff of all the hidden dangers was a proximate cause of the injury to the Plaintiff.

39.) The Plaintiff suffered actual injuries as a result of the breach of duty of Defendant.

40.) The aforementioned incident and resulting injuries and damages sustained by Plaintiff, Amanda Bortz, directly and proximately resulted from the negligence, carelessness, recklessness and/or unlawfulness of Defendant and consisted of, but was not limited to the following:

- A.) Failing to regard the rights, safety and position of the Plaintiff in and about the area of the above-mentioned accident.
- B.) Failing to abide by the Codes of the Division of Occupational Safety and other codes pertaining to care, maintenance and use of water slides.
- C.) Permitting a dangerous condition to exist of, on or about Defendant's premises where the Defendant knew or should have known that persons would be subject to sustaining injury.
- D.) Failing to inspect, maintain and/or repair the aforesaid water slide in a reasonable, adequate and prudent manner.
- E.) Failing to disclose prior accidents on the aforesaid water slide and similar water slides that Defendants maintained.
- F.) Failing to issue adequate warning, verbal, written, actual and/or constructive, to person who would likely encounter the dangerous condition that existed on Defendant's premises and more particularly on Defendant's water slide that was the proximate cause of Plaintiff's aforesaid accident.

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- G.) Failing to have in their employ, people who understood and could explain the dangers of the water slide and particularly "Screaming Hyena."
- H.) Failing to post adequate warning signs, warning and protocols in an effort to alert invitees of the dangerous condition(s) that existed.
- I.) Failing to address in a timely manner prior complaints about the water slide prior to Plaintiff's injury.
- J.) Violating various ordinances regulations, codes, rules, statutes and/or laws of Monroe County of the Commonwealth of Pennsylvania and Federal Government: and/or
- K.) Acting negligently, carelessly, recklessly under circumstances where knowledge of such is within the exclusive knowledge of Defendant and that will be learning through discovery.
- L.) As a direct and proximate result of the aforementioned incident and the resulting injuries and damages, Plaintiff, Amanda Bortz, sustained serious and severe injuries to her left arm and elbow, resulting in several injections and ultimately surgery on July 29, 2019, humiliation, emotional and psychological pain and suffering, emotional distress, possible accelerated arthritis, physical pain and suffering, scarring, weakness, embarrassment and disfigurement - all of which injuries and damages are and/or may be permanent in nature.
- M.) As a direct and proximate result of the aforementioned incident and resulting injuries and damages. Plaintiff, Amanda Bortz suffered and/or suffers and/or will continue to suffer in the future a loss of earnings and her earning power has been and/or may be diminished and lessened.

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- N.) As a direct and proximate result of the aforementioned incident and resulting damages, Plaintiff, Amanda Bortz, has incurred and may incur future medical expenses and income losses she may be entitled to recover.

WHEREFORE, Plaintiff, Amanda Bortz demands against Defendant, Kalahari Resorts PA, LLC demands in excess of \$75,000.00 exclusive of costs, interest, delay damages and other such relief as this Honorable Court may deem just and proper.

**COUNT III:**  
**LOSS OF CONSORTIUM:**

**PLAINTIFF, DAVID BORTZ VS. ALL DEFENDANTS:**

41.) Paragraphs 1 through 40 of this Complaint are incorporated herein by reference as though fully set forth at length.

42.) As a result of the negligence of Defendant as previously described, directly and proximately resulting in the aforementioned injuries to Plaintiff, Amanda Bortz, Plaintiff, David Bortz has been, and may be in the future deprived of the assistance, help, support, services, affection, society, consortium, and companionship of his lawful wife, Amanda Bortz, all to his detriment and loss.

43.) Plaintiff, David Bortz was legally married to Plaintiff, Amanda Bortz prior to and on December 27, 2018.


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44.) Plaintiff-Husband, David Bortz remains legally married to Plaintiff, Amanda Bortz at the time of the filing of this pleading.

WHEREFORE, Plaintiff, David Bortz demands judgment in his favor and against all Defendants in an amount in excess of \$75,000.00 together with such other relief as this Honorable Court may deem just and fair.

RESPECTFULLY SUBMITTED:

DATE: MARCH 29, 2021

BY:   
WILLIAM P. FEDULLO, ESQUIRE  
ATTORNEY FOR PLAINTIFFS,  
AMANDA BORTZ & DAVID BORTZ, H/W  
ATTORNEY I.D. NO. 23681  
1528 WALNUT STREET  
SUITE 400  
PHILADELPHIA, PA 19102  
(215) 235-6500  
E-MAIL: [williamfedullo@gmail.com](mailto:williamfedullo@gmail.com)



IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

AMANDA BORTZ AND  
DAVID BORTZ, H/W  
480 CHARTER COURT  
WESTMINSTER, MARYLAND 21157

*PLAINTIFFS*

VS.

KALAHARI RESORTS AND CONVENTIONS  
250 KALAHARI BOULEVARD  
POCONO MANOR, PA 18349

*DEFENDANT*

AND

KALAHARI RESORTS PA, LLC  
919 NORTH MARKET STREET  
SUITE 950  
WILMINGTON, DELAWARE 19801

*DEFENDANT*

CIVIL ACTION -  
NO. 2:20-cv-06474-GAM

*JURY TRIAL DEMANDED*

CERTIFICATE OF COMPLIANCE

I, **WILLIAM P. FEDULLO, ESQUIRE**, certify that this filing complies within the provisions of the *Public Access Policy of the United States System of Pennsylvania*: Case records of the appellate and trial courts that require filing confidential information and document different than non-confidential information and documents.

Respectfully submitted:

DATE: MARCH 29, 2021

BY: 

WILLIAM P. FEDULLO, ESQUIRE  
ATTORNEY FOR PLAINTIFFS,  
AMANDA BORTZ & DAVID BORTZ, H/W  
ATTORNEY I.D. NO. 23681  
1528 WALNUT STREET  
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PHILADELPHIA, PA 19102  
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E-MAIL: [williamfedullo@gmail.com](mailto:williamfedullo@gmail.com)

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

AMANDA BORTZ AND  
DAVID BORTZ, H/W  
480 CHARTER COURT  
WESTMINSTER, MARYLAND 21157

*PLAINTIFFS*

VS.

KALAHARI RESORTS AND CONVENTIONS  
250 KALAHARI BOULEVARD  
POCONO MANOR, PA 18349

*DEFENDANT*

AND

KALAHARI RESORTS PA, LLC  
919 NORTH MARKET STREET  
SUITE 950  
WILMINGTON, DELAWARE 19801

*DEFENDANT*

CIVIL ACTION -  
NO. 2:20-cv-06474-GAM

**JURY TRIAL DEMANDED**

**CERTIFICATE OF SERVICE**

I, WILLIAM P. FEDULLO, ESQUIRE, Attorney for Plaintiff, hereby certify that I served a true and correct copy of the foregoing **SECOND AMENDED COMPLAINT** by U.S. mail and via email, on the date listed below:

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BY:



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